



House of Representatives

General Assembly

File No. 602

February Session, 2004

Substitute House Bill No. 5021

House of Representatives, April 15, 2004

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT MAKING CERTAIN REFORMS UNDER THE STATE CODES OF ETHICS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-81 of the general statutes is amended by adding
2 subsection (c) as follows (*Effective July 1, 2004*):

3 (NEW) (c) The commission may enter into contractual agreements,
4 as may be necessary for the discharge of its duties, within the limits of
5 its appropriated funds and in accordance with established procedures.

6 Sec. 2. Subsection (d) of section 1-82 of the general statutes is
7 repealed and the following is substituted in lieu thereof (*Effective July*
8 *1, 2004, and applicable to violations committed on or after said date*):

9 (d) No complaint may be made under this section except within
10 [three] five years next after the violation alleged in the complaint has
11 been committed.

12 Sec. 3. Subsection (i) of section 1-84 of the general statutes, as
13 amended by section 146 of public act 03-6 of the June 30 special
14 session, is repealed and the following is substituted in lieu thereof
15 (*Effective July 1, 2004*):

16 (i) No public official or state employee or member of [his] the
17 official or employee's immediate family or a business with which he is
18 associated shall enter into any contract with the state, valued at one
19 hundred dollars or more, other than a contract of employment as a
20 state employee or pursuant to a court appointment, unless the contract
21 has been awarded through an open and public process, including prior
22 public offer and subsequent public disclosure of all proposals
23 considered and the contract awarded. In no event shall an executive
24 head of an agency, as defined in section 4-166, including a
25 commissioner of a department, or an executive head of a quasi-public
26 agency, as defined in section 1-79, or [his] the executive head's
27 immediate family or a business with which he is associated enter into
28 any contract with that agency or quasi-public agency. Nothing in this
29 subsection shall be construed as applying to any public official who is
30 appointed as a member of the executive branch or as a member or
31 director of a quasi-public agency and who receives no compensation
32 other than per diem payments or reimbursement for actual or
33 necessary expenses, or both, incurred in the performance of [his] the
34 public official's duties unless such public official has authority or
35 control over the subject matter of the contract. Any contract made in
36 violation of this subsection shall be voidable by a court of competent
37 jurisdiction if the suit is commenced within [ninety] one hundred
38 eighty days of the making of the contract.

39 Sec. 4. Section 1-84 of the general statutes, as amended by section
40 146 of public act 03-6 of the June 30 special session, is amended by
41 adding subsection (p) as follows (*Effective July 1, 2004*):

42 (NEW) (p) No public official or state employee, in such official's or
43 employee's official capacity, shall knowingly or recklessly, counsel,
44 authorize or otherwise sanction action that violates any provision of

45 this part.

46 Sec. 5. Subsections (f) and (g) of section 1-84b of the general statutes,
47 as amended by section 146 of public act 03-6 of the June 30 special
48 session, are repealed and the following is substituted in lieu thereof
49 (*Effective July 1, 2004*):

50 (f) (1) No former public official or state employee [(1)] (A) who
51 participated substantially in the negotiation or award of [(A)] (i) a state
52 contract valued at an amount of fifty thousand dollars or more, or [(B)]
53 (ii) a written agreement for the approval of a payroll deduction slot
54 described in section 3-123g, or [(2)] (B) who supervised the negotiation
55 or award of such a contract or agreement, shall accept employment
56 with a party to the contract, [or] agreement or negotiation other than
57 the state for a period of one year after [his] the public official's or state
58 employee's resignation from [his] state office or [position if his] state
59 employment if such resignation occurs less than one year after [the
60 contract or agreement is signed] the earlier of (i) the date the contract
61 or agreement is signed, or (ii) the date the official or employee ceases
62 to supervise, or participate substantially in, the negotiation or award of
63 the contract or agreement, as determined by regulations which the
64 commission shall adopt, in accordance with chapter 54.

65 (2) No party to the contract may employ a public official or state
66 employee if such employment would violate subdivision (1) of this
67 subsection.

68 (g) (1) No member or director of a quasi-public agency who
69 participates substantially in the negotiation or award of a contract
70 valued at an amount of fifty thousand dollars or more, or who
71 supervised the negotiation or award of such a contract, shall seek,
72 accept, or hold employment with a party to the contract or negotiation
73 for a period of one year after [the signing of the contract] the earlier of
74 (A) the date the contract is signed, or (B) the date the member or
75 director ceases to participate substantially in the negotiation or award
76 of the contract, as determined by regulations which the commission

77 shall adopt, in accordance with chapter 54.

78 (2) No party to the contract may employ a member or director if
79 such employment would violate subdivision (1) of this subsection.

80 Sec. 6. Subsections (a) and (b) of section 1-88 of the general statutes
81 are repealed and the following is substituted in lieu thereof (*Effective*
82 *July 1, 2004*):

83 (a) The commission, upon a finding made pursuant to section 1-82,
84 as amended by this act, that there has been a violation of any provision
85 of this part, shall have the authority to order the violator to do any or
86 all of the following: (1) Cease and desist the violation of this part; (2)
87 file any report, statement or other information as required by this part;
88 and (3) pay a civil penalty of not more than [two] ten thousand dollars
89 for each violation of this part.

90 (b) Notwithstanding the provisions of subsection (a) of this section,
91 the commission may, after a hearing conducted in accordance with
92 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
93 its members, impose a civil penalty not to exceed ten dollars per day
94 upon any individual who fails to file any report, statement or other
95 information as required by this part. Each distinct violation of this
96 subsection shall be a separate offense and in case of a continued
97 violation, each day thereof shall be deemed a separate offense. In no
98 event shall the aggregate penalty imposed for such failure to file
99 exceed [two] ten thousand dollars.

100 Sec. 7. Subsection (d) of section 1-93 of the general statutes is
101 repealed and the following is substituted in lieu thereof (*Effective July*
102 *1, 2004, and applicable to violations committed on or after said date*):

103 (d) No complaint may be made under this section except within
104 [three] five years next after the violation alleged in the complaint has
105 been committed.

106 Sec. 8. Subsections (a) and (b) of section 1-99 of the general statutes
107 are repealed and the following is substituted in lieu thereof (*Effective*

108 July 1, 2004):

109 (a) The commission, upon a finding made pursuant to section 1-93,
110 as amended by this act, that there has been a violation of any provision
111 of this part, shall have the authority to order the violator to do any or
112 all of the following: (1) Cease and desist the violation of this part; (2)
113 file any report, statement or other information as required by this part;
114 or (3) pay a civil penalty of not more than [two] ten thousand dollars
115 for each violation of this part. The commission may prohibit any
116 person who intentionally violates any provision of this part from
117 engaging in the profession of lobbyist for a period of not more than
118 two years. The commission may impose a civil penalty on any person
119 who knowingly enters into a contingent fee agreement in violation of
120 subsection (b) of section 1-97 or terminates a lobbying contract as the
121 result of the outcome of an administrative or legislative action. The
122 civil penalty shall be equal to the amount of compensation which the
123 registrant was required to be paid under the agreement.

124 (b) Notwithstanding the provisions of subsection (a) of this section,
125 the commission may, after a hearing conducted in accordance with
126 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
127 its members, impose a civil penalty not to exceed ten dollars per day
128 upon any registrant who fails to file any report, statement or other
129 information as required by this part. Each distinct violation of this
130 subsection shall be a separate offense and, in case of a continued
131 violation, each day thereof shall be deemed a separate offense. In no
132 event shall the aggregate penalty imposed for such failure to file
133 exceed [two] ten thousand dollars.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004, and applicable to violations committed on or after said date</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>July 1, 2004</i>
Sec. 5	<i>July 1, 2004</i>

Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>July 1, 2004, and applicable to violations committed on or after said date</i>
Sec. 8	<i>July 1, 2004</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Ethics Com.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill: (1) extends the review period from 3 to 5 years for the statute of limitations for the State Ethics Commission to investigate ethics violations, and (2) raises from \$2,000 to \$10,000, the civil penalty limits for each ethics violation. It is anticipated that the Commission can handle the workload increase within its normal budgetary resources.

Data on the number of ethics fines were assessed for the prior 2 fiscal years. A fine can consist of several violations. In FY 02, \$59,610 was collected for 10 fines and in FY 03, \$19,400 was collected for 6 fines. To the degree that these changes increase the likelihood that penalties for violations are assessed and at a potentially higher fine, there will be a revenue gain to the General Fund.

OLR Bill Analysis

sHB 5021

AN ACT MAKING CERTAIN REFORMS UNDER THE STATE CODES OF ETHICS**SUMMARY:**

This bill makes several changes the State Codes of Ethics. It:

1. increases, from three to five years, the statute of limitations for filing complaints of ethics violations with the State Ethics Commission and makes the increase applicable to violations committed on and after July 1, 2004;
2. increases the maximum civil penalty for ethics code violations from \$2,000 to \$10,000;
3. doubles the time, from 90 to 180 days, the state has to bring an action to void a contract entered in violation of the code;
4. prohibits public officials and state employees, acting in their official capacities, from knowingly or recklessly advising or approving actions that violate the code;
5. expands the post-employment contract restrictions applicable to certain public officials, state employees, and quasi-public agency directors and members; and
6. permits the commission to contract for services that are necessary to complete its duties, within available appropriations and in compliance with established procedures.

EFFECTIVE DATE: July 1, 2004

POST-EMPLOYMENT RESTRICTIONS

The law sets a time period during which former public officials, state employees, and directors and members of quasi-public agencies cannot accept a job with a party to a contract or negotiation, other than the state. They cannot accept the job within one year after they resign, if they resign less than a year after the contract or agreement is signed and if:

1. they supervised or substantially participated in the negotiation or award of the contract or agreement and

2. the contract was worth \$50,000 or more or the agreement concerns state payroll check deductions for products or services.

The bill expands the prohibition to include (1) parties to the negotiations for a covered contract or agreement who do not become a party to that contract or agreement and (2) former public officials and state employees who negotiate a covered contract or agreement but resign before it is signed.

The bill prohibits former officials and employees from taking a job within one year of resigning from state service if the resignation occurs less than one year after (1) the contract is signed or (2) they stopped substantially participating in the negotiations, whichever occurs sooner. It prohibits quasi-public agency directors and members from seeking or taking a job within one year after they cease substantial participation in the negotiations or the contract is signed, whichever occurs first.

The bill prohibits parties to the contract from hiring public officials, state employees, and directors and members of quasi-public agencies if to do so would violate the post-employment restriction.

Lastly, the bill requires the State Ethics Commission to determine, in regulations, when a person ceases to participate substantially.

BACKGROUND

Voidable State Contracts

The state has 90 days to void any state contract entered into with a public official or state employee, a member of their immediate family, or any business with which they are associated that is (1) valued at \$100 or more and (2) not won through an open and public bidding process. The law does not apply to public officials who receive only a per diem payment or expense reimbursements, or both.

Agency Contracting Procedures

Agencies may negotiate personal service contracts below \$3,000. They must request proposals for contracts above this threshold, which the Department of Administrative Services, Office of the Attorney General, and Office of Policy and Management must review and sign.

Agencies may contract for supplies and materials costing less than \$1,000 on the open market. Over this threshold, they must get quotes or advertise.

Legislative History

On March 23, the House referred the bill (File 35) to the Judiciary Committee, which removed the separate statute of limitation for filing ethics complaints against public officials and the increased penalty for intentional ethics violations.

COMMITTEE ACTION**Government Administration and Elections Committee**

Joint Favorable Substitute

Yea 17 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 32 Nay 2